

## **REMARKS**

Reexamination and reconsideration of this application in view of the amendment to the claims and the following remarks is respectfully requested. By this amendment, claims 1-2, 8-9, and 15-16 are amended; no claims are canceled; and no new claims are added. After this amendment, claims 1-20 remain pending in this application.

### **Claim Rejections - 35 USC §103**

Reconsideration of the rejection of claims 1-20 under 35 U.S.C. §103(a) as being considered made obvious by McClung, III, (U.S. Pat. No. 7,107,225 B1) in view of Thakur et al. (U.S. Patent Pub 2002/0194069), is respectfully requested in view of the amendments to claims 1-2, 8-9, and 15-16, and for the following reasons.

The Examiner on page 2 of the present Office Action states that McClung teaches:

receiving, by a first web site, information directly from a user, the information being entered by the user at the first web site via a user interface at the first website, wherein the information (discussed below) is associated with a product and/or service that was purchased by the user, wherein the information includes the purchase price of the product and/or service and wherein the vendor offers purchase price protection for the product and/or service, and wherein the user submits the information to the first web site by selecting a button on the user interface (discussed below) (Col. 4 Lines 8-30; Col. 5 Lines 41 — 54);

The Examiner goes on to state in the Response To Arguments section that:

McClung discloses that a consumer logs into the host system wherein the host system provides a means for recording the first price, which is obviously associated with the item purchased, and information identifying the consumer (Col. I Lines 39 — 52, 60 — 64; Col. 4-5 Lines 67— 1).

McClung discloses means for guaranteeing a consumer a best price on an item purchased from the vendor in a first transaction at a first price by recording the first price and information identifying the consumer to the host system, wherein the host system includes means for monitoring the sales price of the item, means for noting any price lower than the first price, means for refunding to the

consumer an amount equal to the money-value difference (Figure 2).

Although McClung fails to explicitly disclose that the user submits the entered information by selecting a button on the user interface, the Examiner asserts that it would have been obvious to one having ordinary skill in the art that the interface must include a button in order to allow the user to submit the inputted information.

As discussed above, McClung discloses that the consumer enters the product information purchased from a vendor into the host system, wherein the host system then monitors the price of the product to determine whether a refund is applicable.

The Examiner asserts that it is obviously included for the host system to have a listing of text fields and identifiers in order for the user to properly input the necessary information into the host system, wherein the host system then monitors the price of the product to determine whether a refund is applicable. Moreover, as discussed above, McClung discloses that the price of the product is inputted into the system.

The Applicant respectfully disagrees with the Examiner. The Examiner continues to assert that McClung teaches that a user enters information at a first website that is different from a second website where a user purchased a product/service regarding the purchase for purchase protection. The Applicant respectfully suggests that the Examiner is incorrect.

As has been argued extensively throughout prosecution of this application, McClung is completely silent on:

receiving, by a first web site, information directly from a user, the information being entered by the user at the first web site via a user interface at the first website, wherein the information is associated with a product and/or service that was purchased by the user from a second web site different from the first web site, wherein the information includes the purchase price of the product and/or service and wherein the second web site offers purchase price protection for the product and/or service, and wherein the user submits the information to the first web site by selecting a button on the user interface;

McClung incorporates Thakur and consistently refers to the Host system of Thakur. The system of Thakur merely teaches a system for providing future discounts such as coupons to a consumer. See Thakur generally. A consumer only logs into a host system to enter location data for generating coupons or for obtaining coupons. For example, Thakur teaches at paragraphs

[0018]-[0020]:

The present invention, in certain embodiments, discloses and teaches a system in which a consumer at a location such as home or work accesses a host system [e.g. but not limited to a centralized computer system with its own database; a network of computers; a computer system which accesses other pertinent databases; or the Internet global communications system (henceforth herein "Internet" or "IGCS")]. In accessing the host system either: 1. The consumer inputs location data for generating coupons and/or sales information pertinent to a specific geographic location; or 2. The system itself recognizes the consumer's location based on: the phone number used to communicate with the host system; and/or on previously inputted and/or identified data or identifier(s).

In certain embodiments the consumer inputs one, some or all of the following so that the host system can identify the pertinent geographic area (henceforth "PGA"): phone number area code; phone number area code and first three digits of the phone number; phone number area code and first six digits of the phone number; phone number area code and entire phone number; five digit zipcode; nine digit zipcode; global positioning system location coordinates; and/or actual physical address.

In certain embodiments the host system itself uses one, some, (in any possible combination) or all of the information listed above to determine a PGA for the consumer. Once the PGA is determined, the host system scans its database(s) for information related to vendors within that PGA. Then the host system provides the information to the consumer's computer. The "information" may include coupons shown on the consumer's computer monitor and printable at the consumer's computer printer and/or sales information regarding the vendors' goods, services, specials, programs, etc. The term "vendor" can include, but is not limited to, seller, manufacturer, sponsor, utility companies, advertiser, businesses, broadcaster and supplier

Nowhere does Thakur teach or suggest that a consumer enters any information regarding a purchase. In fact, Thakur teaches that the host system records sales transaction by communicating with the vendor. For example, Thakur teaches at paragraph [0073]:

In certain aspects of methods according to the present invention a consumer presents a magnetic strip card to a clerk at a vendor's counter to swipe through a validating device or cash register. This establishes a connection between the vendor (e.g. via a merchant) and the consumer's account number thereby confirming membership or participation in the proprietary system. Then relevant information downloads automatically from a database of a central computer of the Host System regarding the specific vendor's coupons/offers/rebates etc. thereby enabling the check-out of the currently advertised and rebated items out of a total of actually purchased items for the purpose of redemption and discount.

Therefore, Thakur teaches away from a consumer entering any sales information at the host system which McClung relies upon.

With respect to the Examiners statement of:

McClung discloses that a consumer logs into the host system wherein the host system provides a means for recording the first price, which is obviously associated with the item purchased, and information identifying the consumer (Col. 1 Lines 39 — 52, 60 — 64; Col. 4-5 Lines 67— 1).

Col. 1, lines 39-52 states, in part:

Alternatively, a host system or any centralized system as disclosed in the "Business System" patent application (or in any prior art system cited therein) may record the sale, monitor the vendor and the product (or service) for the preset time period, and handle the making available of the refund, etc. to the consumer.

As stated above, the only teaching in Thakur to which McClung is referring to with respect to recording a sale is that which the host system communicates with the vendor to obtain sales data. McClung does not provide any different teaching than Thakur.

Col. 4-5 Lines 67-1 of McClung merely state that the system of FIG. 1 has a means for recording the first price and information identifying the consumer. As stated above, the host system as taught by Thakur to which McClung is using uses a magnetic card with consumer information to obtain consumer identifying information and sales information. McClung does not provide any further teaching to identify that a consumer is providing this information to the host system. The very next paragraph at col. 5, lines 18-40 states: "The present invention, therefore, discloses in some, but not necessarily all embodiments, a business system with a magnetic strip card with consumer identifying information encoded thereon said information identifying a consumer desiring to conduct a transaction with a vendor". The Examiner is improperly expanding the scope of McClung.

With respect to the Examiner's statement of:

The Examiner asserts that it is obviously included for the host system to have a listing of text fields and identifiers in order for the user to properly input the necessary information into the host system, wherein the host system then monitors

the price of the product to determine whether a refund is applicable. Moreover, as discussed above, McClung discloses that the price of the product is inputted into the system.

The Applicant respectfully suggests that if McClung “obviously included for the host system to have a listing of text fields and identifiers in order for the user to properly input the necessary information into the host system” such as information associated with a product and/or service that was purchased by the user from a second web site then the Examiner should be able to point out where in McClung this is taught. However, nowhere does McClung teach this.

Also, McClung merely teaches that a consumer contacts a host system. This does not teach or infer:

receiving, by a first web site, information directly from a user, the information being entered by the user at the first web site via a user interface at the first website, wherein the information is associated with a product and/or service that was purchased by the user from a second web site different from the first web site, wherein the information includes the purchase price of the product and/or service and wherein the second web site offers purchase price protection for the product and/or service, and wherein the user submits the information to the first web site by selecting a button on the user interface;

The consumer can be logging into the host system to determine if a coupon is available or if a refund is available. As discussed above, the host system tracks sales data without the consumer interaction. Therefore, a consumer logging into the host system does not automatically render the above claim language obvious.

Accordingly, the presently claimed invention distinguishes over McClung for at least these reasons.

The Examiner correctly states on pages 3-4 of the present Office Action that “McClung fails to explicitly disclose whether a consumer performed the purchase at the host system or at the vendor's web site.” However, the Examiner goes on to combine McClung with Thakur to overcome the deficiencies of McClung.

The Examiner goes on to characterize Thakur as follows:

Thakur discloses that a consumer makes an initial inquiry to the host system and fills out a host system questionnaire. The host system can further keep a record of the consumer's transactions with each vendor in its database including payments, discounts refunds, and accounting transactions. As can be seen in Fig. 1, the consumer can perform transactions directly with the vendor and provide any necessary information to complete the host system questionnaire. The host system is also in communication with the vendor and the consumer, as well. As a result, it would have been obvious for a consumer to purchase a product from a vendor, provide the vendor information to the host system, having the host system search for the vendor within the host system database, and have the host system be in communication with the vendor in order to monitor any transactions made between the vendor and the consumer (See Fig. 1, Page 5 —6 ¶ 57, 61 — 64; Page 7 ¶ 74).

The Examiner seems to be inferring that the consumer can enter sales transaction information into the host system of McClung. As discussed above, Thakur only teaches that a consumer enters location data so that coupons or discounts can be generated for the consumer. Therefore, Thakur does not teach a user entering information associated with a product and/or service that was purchased by the user from a second web.

Accordingly, the presently claimed invention distinguishes over McClung and Thakur individually and/or in combination with one another for at least these reasons.

Furthermore, the Applicant has amended independent claims 1, 8, and 15 to more clearly recite:

receiving, by a first web site, information directly from a user, the information being entered by the user at the first web site via a user interface at the first website, wherein the information is associated with a product and/or service that was purchased by the user from a second web site different from the first web site, wherein the information includes the purchase price of the product and/or service and wherein the second web site offers purchase price protection for the product and/or service, wherein the user also enters a type of purchase price protection offered by the second website, and wherein the user submits the information to the first web site by selecting a button on the user interface;

initiating, by the first web site, the purchase price protection offered by the second website as indicated by the user for the product and/or service in response to the user selecting the button on the user interface;

[...]

Support for this amendment can be found at, for example, paragraph [0049] of the U.S. Pre-Grant Publication No. 2005/0044001 of the present application. No new matter has been added.

Nowhere does McClung and/or Thakur teach or suggest “... wherein the user also enters a type of purchase price protection offered by the second website, and wherein the user submits the information to the first web site by selecting a button on the user interface; initiating, by the first web site, the purchase price protection offered by the second website as indicated by the user...” McClung teaches two different embodiments, the first one being where the vendor itself does the price monitoring and the second embodiment being where a separate host system performs the price monitoring. McClung merely states “monitoring the sales price of the item for a predetermined time period after the first transaction”. Nowhere does McClung and/or Thakur teach or suggest that a user can enter at the first website, that is different than the second website where the user purchased the product/service, the type of price protection offered by the second website. Also, nowhere does McClung and/or Thakur teach or suggest that the first website performs the price protection offered by the second website as indicated by the user. Accordingly, the presently claimed invention distinguishes over McClung and Thakur individually and/or in combination with one another for at least these reasons as well.

The Applicant has also amended independent claim 8 to more clearly recite:

[...]

wherein the user also enters a type of purchase price protection offered by the second website, the user also entering a notification type selection indicating how the user is to be notified of a refund from the purchase price protection, and wherein the user submits the information to the first web site by selecting a button on the user interface;

initiating, by the first web site, the purchase price protection offered by the second website as indicated by the user for the product and/or service in response to the user selecting the button on the user interface;

determining, by the first web site, a current price for the product and/or service at the second web site;

determining, by the first web site, whether the user is entitled to a purchase price protection refund based on the current price at the second web site; and

the first web site sending directly to the user an indication based on the notification type selection entered by the user indicating that the user is entitled to

the purchase price protection refund.

Support for this amendment can be found at, for example, paragraph [0050] of the U.S. Pre-Grant Publication No. 2005/0044001 of the present application. No new matter has been added.

Thakur merely teaches at paragraph [0112] that:

In one aspect, e.g., if a consumer makes a purchase and qualified for a future discount, a TPA forwards only a portion of the purchase price to the vendor and retains the remainder as a service fee. The Host System may charge a vendor a set fee, e.g. a certain dollar amount each month or quarter, and/or a fee for each transaction. If desired, when the future discount is applied to a future purchase, a new discount amount is calculated and handled as described above.

However, Thakur does not (and also McClung does not) teach or suggest, as recited for amended independent claim 15, “...wherein the transmitter is further for sending a portion of the refund directly to the user and keeping a remaining portion of the refund as a fee associated with the user”. Accordingly, the presently claimed invention distinguishes over McClung and Thakur individually and/or in combination with one another for at least these reasons as well.

Support for this amendment can be found at, for example, paragraph [0050] of the U.S. Pre-Grant Publication No. 2005/0044001 of the present application. No new matter has been added.

Furthermore, claims 2-7 depend upon independent Claim 1, Claims 9-14 depend upon independent Claim 8, and Claims 16-20 depend upon independent Claim 15, and because dependent claims recite all the limitations of the independent claim, it is believed, for this additional reason, that dependent Claims 2-7, 9-14, and 16-20 also recite in allowable form.

Accordingly, in view of the remarks above, in view of the amendments to Claims 1-2, 8-9, and 15-16, and because McClung and Thakur each reference taken alone and/or in any combination thereof does not teach, anticipate, or suggest the presently claimed invention, the

Applicant believes that the rejection of claims 1-20 under 35 U.S.C. §103(a) has been overcome. The Examiner should withdraw the rejection of these claims.

### **Conclusion**

The foregoing is submitted as full and complete response to the Office Action mailed November 26, 2007. It is believed that the application is now in condition for allowance. Allowance of claims 1-20 is respectfully requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless the Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The present application, after entry of this Response, comprises twenty (20) claims, including three (3) independent claims. The Applicant has previously paid for twenty (20) claims including three (3) independent claims. The Applicant, therefore, believes that a fee for claims amendment is currently not due.

The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No.: **50-1556**.

**PLEASE CALL the undersigned attorney at (561) 989-9811, should the Examiner believe a telephone interview would help advance prosecution of the application.**

Reconsideration, re-examination, and allowance of the present claims are requested.

Respectfully submitted,

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